

Complaint

IN THE MATTER OF

**CHEMENCE, INC.,
AND
JAMES COOKE**CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF SECTION 5 OF THE FEDERAL
TRADE COMMISSION ACT*Docket No. C-4738; File No. X160032**Complaint, February 9, 2021 – Decision, February 9, 2021*

This consent order addresses Chemence, Inc.’s advertising, labeling, sale, and distribution of cyanoacrylate “superglue” products as made in the United States. The complaint alleges that Respondents engaged in deceptive acts or practices in violation of Section 5(a) of the Federal Trade Commission Act by representing that the cyanoacrylate “superglue” products they manufactured and supplied to trade customers were all or virtually all made in the United States and violated a 2016 federal court order in the process. The consent order prohibits Respondents from making any country-of-origin claim about a product or service unless the claim is true, not misleading, and Respondents have a reasonable basis substantiating the representation.

Participants

For the *Commission*: Julia Solomon Ensor and Adrienne J. Lighten.

For the *Respondents*: Robert Wilson, Wilson & Wilson Co., L.P.A.

COMPLAINT

The Federal Trade Commission, having reason to believe that Chemence, Inc., a corporation, and James Cooke, individually and as an officer of Chemence, Inc., (collectively, “Respondents”) have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Chemence, Inc. (“Chemence”) is an Ohio corporation with its principal office or principal place of business at 185 Bluegrass Valley Parkway, Alpharetta, GA 30005.

2. Chemence advertises, labels, offers for sale, and distributes products to consumers, including, but not limited to, cyanoacrylate glue products (“cyanoacrylates”). Cyanoacrylates are strong, fast-acting adhesives, also known as “power glues” or “superglues,” with industrial, medical, and household uses. Chemence advertises these products in stores and on its website, www.chemence-us.com, and offers for sale, sells, and distributes them directly to the public throughout the United States.

3. Chemence provides third parties with marketing materials so third parties can market and sell products under its own brand names.

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4. Chemence also manufactures private-labeled products sold under retailer brand names, and provides those retailers with labeling and promotional materials for use in the marketing and sale of private-labeled products.

5. Respondent James Cooke (“Cooke”) is the president of Chemence. Individually or in concert with others, he controlled or had the authority to control, or participated in the acts and practices of Chemence, including the acts and practices alleged in this complaint. Since at least 2014, he has communicated with the Federal Trade Commission on Chemence’s behalf regarding the acts and practices alleged in this complaint. In 2017, he personally signed the Report described *infra* ¶¶13-17, in which he designated himself the Federal Trade Commission’s primary point of contact regarding the acts and practices alleged in this complaint, and expressly assumed liability for Chemence’s compliance with the 2016 Order described *infra* ¶ 8. His principal office or place of business is the same as that of Chemence.

6. The acts and practices of Respondents alleged in this complaint have been in or affecting commerce, as “commerce” is defined in Section 4 of the Federal Trade Commission Act.

2016 Action and Order

7. On February 1, 2016, the Federal Trade Commission (“FTC”) filed the complaint in the Northern District of Ohio attached as **Exhibit A** alleging that Chemence violated Section 5(a) of the Federal Trade Commission Act, 15 U.S.C. § 45(a), by deceptively representing that its cyanoacrylates, including the materials used to make such products, were all or virtually all made in the United States. In fact, the complaint alleged, a significant proportion (approximately 55%) of the cost of the chemical inputs to Chemence’s cyanoacrylates is attributable to imported chemicals, and these imported chemicals are essential to the function of Chemence’s glue products. The complaint further alleged that Chemence provided the means and instrumentalities to third-party retailers to commit deceptive acts and practices by providing such retailers with deceptive marketing materials for use in the marketing and sale of private-labeled products.

8. On October 13, 2016, the Northern District of Ohio entered the Stipulated Order for Permanent Injunction and Monetary Judgment attached as **Exhibit B** (the “2016 Order”), resolving all matters then in dispute between Chemence and the FTC.

9. In addition to monetary relief and compliance-monitoring provisions, the 2016 Order contained two injunctive relief provisions.

10. Part I of the 2016 Order permanently enjoins Chemence from representing, expressly or by implication, that a product or service is of U.S. origin unless: (1) the final assembly or processing of the product occurs in the United States, all significant processing that goes into the product occurs in the United States, and all or virtually all ingredients or components of the product are made and sourced in the United States; or (2) a clear and conspicuous qualification appears immediately adjacent to the representation that accurately conveys the extent to which the product contains foreign parts, ingredients, and/or processing.

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11. Part II of the 2016 Order permanently enjoins Chemence from providing others with the “means and instrumentalities” to make any representation prohibited by Part I. The 2016 Order defines “means and instrumentalities” as any information, including but not limited to, any advertising, labeling, promotional, sales training, or purported substantiation materials, for use by trade customers in the marketing of any product or service.

12. Part V.A. of the 2016 Order requires Chemence to submit a compliance report one year after entry of the Order.

2017 Compliance Report

13. On October 17, 2017, Chemence submitted the required one-year compliance report, attached as **Exhibit C** (the “2017 Report”).

14. The 2017 Report describes Chemence’s efforts to comply with each provision of the 2016 Order. In addition to these efforts, the 2017 Report states, “To assure future compliance with the Order, Chemence has instructed members of its respective staffs having responsibility for the requirements of the Order and of their responsibility to ensure compliance with the Order . . . Chemence is confident that those instructions are sufficient to ensure compliance with the Order.” See Exhibit C, p.2.

15. The 2017 Report further includes a declaration under penalty of perjury that, as of October 13, 2017, “Chemence has changed the labeling on all of Chemence’s cyanoacrylate glue/superglue adhesive products sold, distributed or offered for sale or distribution, by or on behalf of Chemence to consumers to read ‘Made in USA with US and globally sourced materials.’” *Id.* at 3-4.

16. As Chemence’s President, Cooke personally signed the 2017 Report, declaring it true and correct under penalty of perjury. *Id.* at 6.

17. The 2017 Report also includes Cooke’s executed Acknowledgement by Declaration of Receipt of the 2016 Order. *Id.* at 31.

Private-Labeled Products

18. Since entry of the 2016 Order, Respondents continued to manufacture private-labeled products sold under retailer brand names, and provide those trade customers with labeling and promotional materials for use in the marketing and sale of private-labeled products.

19. In numerous instances since entry of the 2016 Order and through at least March 2020, despite the statement described in Paragraph 15, Respondents supplied such trade customers with pre-labeled and pre-packaged cyanoacrylates containing unqualified “Made in USA” claims on promotional materials or labels. Examples include, but are not limited to, the promotional materials and labels depicted in attached **Exhibit D**.

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20. In numerous instances, including, but not limited to, the promotional materials and labels shown in **Exhibit D**, Respondents represented the private-labeled cyanoacrylates it supplied to trade customers were all or virtually all made in the United States.

21. In fact, significant proportions of the chemical inputs, and overall costs, to manufacture Respondents' cyanoacrylates are attributable to foreign materials. In numerous instances, foreign materials accounted for more than 80% of materials costs and more than 50% of overall manufacturing costs for these products.

22. Therefore, Respondents' claims that their private-labeled cyanoacrylates are all or virtually all made in the United States deceive consumers.

23. Respondents' claims also violate Part I of the 2016 Order because Respondents represented their cyanoacrylates were of U.S.-origin, with no qualification, despite the fact that they contain significant ingredients sourced outside the United States.

24. Respondents further violated Part II of the 2016 Order because they provided labeling and promotional materials containing representations prohibited by Part I to third-party trade customers for use in the marketing of private-labeled cyanoacrylates.

25. Despite knowing or consciously avoiding knowing that Chemence's private-labeled cyanoacrylates are labeled "Made in USA" without qualification, in the 2017 Compliance Report, Cooke nonetheless declared under penalty of perjury that Chemence had "changed the labeling on all of Chemence's cyanoacrylate glue/superglue adhesive products sold, distributed or offered for sale or distribution by or on behalf of Chemence customers to read 'Made in USA with US and globally sourced materials.'"

26. Entry of an administrative order against Respondents will make civil penalties for future violations available to the Commission pursuant to Section 5(l) of the FTC Act, 15 U.S.C. § 45(l), as modified by Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, and Section 1.98(c) of the FTC's Rules of Practice, 16 C.F.R. § 1.98(c), which directs that a Respondent who violates an order of the Commission after it has become final, and while such order is in effect, "shall forfeit and pay to the United States a civil penalty of not more than [\$43,280] for each violation."

27. Therefore, an administrative action is in the public interest.

COUNT I
False or Misleading Representation

28. In connection with the advertising, promotion, offering for sale, or sale of cyanoacrylates, Respondents have represented, directly or indirectly, expressly or by implication, that such cyanoacrylates, including the raw materials used to make such products, are all or virtually all made in the United States.

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29. In fact, a significant proportion of the costs of the materials used and a significant proportion of the overall costs to make Respondents' cyanoacrylates are attributable to imported materials. Therefore, the representation set forth in Paragraph 28 is false or misleading.

COUNT II
Means and Instrumentalities

30. Respondents have distributed the promotional materials described in Paragraphs 19 and 20 to trade customers for use in the marketing and sale of Respondents' products, including private-labeled products. In so doing, Respondents have provided the means and instrumentalities to these third-party retailers for the commission of deceptive acts or practices.

VIOLATION OF SECTION 5

31. The acts and practices of Respondents as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this ninth day of February, 2021, has issued this Complaint against Respondents.

By the Commission.

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Exhibit A

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

CHEMENCE, INC., an Ohio corporation,

Defendant.

Case No. 1:16-cv-228

**COMPLAINT FOR PERMANENT
INJUNCTION AND OTHER
EQUITABLE RELIEF**

Plaintiff, the Federal Trade Commission ("FTC"), for its Complaint alleges:

1. The FTC brings this action under Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), to obtain temporary, preliminary, and permanent injunctive relief, rescission or reformation of contracts, restitution, the refund of monies paid, disgorgement of ill-gotten monies, and other equitable relief for Defendant's acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

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JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a), 53(b), and other applicable provisions.

3. Venue is proper in this district under 28 U.S.C. § 1391(b)(1), (b)(2), (c)(2), and (d), and 15 U.S.C. § 53(b).

PLAINTIFF

4. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce.

5. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and to secure such equitable relief as may be appropriate in each case, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C. § 53(b).

DEFENDANT

6. Defendant Chemence, Inc. ("Chemence") is an Ohio corporation with its principal place of business at 185 Bluegrass Valley Parkway, Alpharetta, GA 30005. Chemence transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint, acting alone or in concert with others, Chemence has advertised, marketed, distributed, or sold cyanoacrylate glues to consumers throughout the United States.

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COMMERCE

7. At all times material to this Complaint, Defendant has maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANT’S BUSINESS ACTIVITIES

8. Defendant advertises, labels, offers for sale, and distributes products to consumers, including, but not limited to, cyanoacrylate glues. Cyanoacrylates are strong, fast-acting adhesives, also known as “power glues” or “superglues,” with industrial, medical, and household uses. Defendant advertises these products in stores and on its website, www.chemence-us.com, and offers for sale, sells, and distributes them directly to the public throughout the United States.

9. Defendant provides third parties with marketing materials so third parties can market and sell Defendant’s own products.

10. Defendant manufactures rebranded, private-labeled products sold under retailer brand names, and provides those retailers with marketing materials for use in the marketing and sale of rebranded, private-labeled products.

11. To induce consumers to purchase cyanoacrylate glues, Defendant has disseminated, or has caused to be disseminated, advertisements, packaging, and promotional materials for its products. These materials contain the following statements, among others:

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A. “Proudly Made in the USA”;



CHEMENCE INC, Alpharetta, GA 30005, U.S.A. TEL: 770-664-6624
Proudly Made in the USA / Hecho e Impreso en E.U.A.

(Kwik-Frame Product Packaging; Chemence Product Packaging)

B. “Made in the USA.”



(Chemence Product Packaging)

12. In numerous instances, including, but not limited to, the promotional materials referenced in Paragraph 11, Defendant has represented that its cyanoacrylate glue products, including raw materials, are all or virtually all made in the USA.

13. In fact, a significant proportion (approximately 55%) of the cost of the chemical inputs to Defendant’s cyanoacrylate glue products is attributable to imported chemicals, and these imported chemicals are essential to the function of Defendant’s glue products.

14. Therefore, Defendant’s claims that its cyanoacrylate glues are made in the USA deceive consumers because Defendant’s products are actually made in the USA with domestic and imported materials.

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VIOLATIONS OF THE FTC ACT

15. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or deceptive acts or practices in or affecting commerce.”

16. Misrepresentations or deceptive omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

Count I (False or Misleading Representation)

17. Through the means described in Paragraphs 11 and 12, Defendant has represented, directly or indirectly, expressly or by implication, that its cyanoacrylate glue products, including the materials used to make such products, are all or virtually all made in the United States.

18. In truth and in fact, Defendant’s cyanoacrylate glue products, including the materials used to make such products, are not all or virtually all made in the United States.

19. Therefore, the making of the representation as set forth in Paragraph 17 of this Complaint constitutes a deceptive act or practice, in or affecting commerce in violation of Section 5(a) of the FTC Act.

Count II (Means and Instrumentalities)

20. As described in Paragraph 10, Defendant has distributed the promotional materials described in Paragraphs 11 and 12 to third-party retailers for use in the marketing and sale of Defendant’s products, including rebranded products.

21. In so doing, Defendant has provided the means and instrumentalities to these third-party retailers for the commission of deceptive acts or practices.

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22. Therefore, Defendant's practices, as described in Paragraphs 20 and 21, constitute deceptive acts or practices in violation of Section 5 of the FTC Act.

CONSUMER INJURY

23. Consumers have suffered and will continue to suffer substantial injury as a result of Defendant's violations of the FTC Act. In addition, Defendant has been unjustly enriched as a result of its unlawful acts or practices. Absent injunctive relief by this Court, Defendant is likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

24. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of any provision of law enforced by the FTC. The Court, in the exercise of its equitable jurisdiction, may award ancillary relief, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies, to prevent and remedy any violation of any provision of law enforced by the FTC.

PRAYER FOR RELIEF

Wherefore, Plaintiff FTC, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and the Court's own equitable powers, requests that the Court:

A. Award Plaintiff such preliminary injunctive and ancillary relief as may be necessary to avert the likelihood of consumer injury during the pendency of this action and to preserve the possibility of effective final relief, including but not limited to, temporary and preliminary injunctions;

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B. Enter a permanent injunction to prevent future violations of the FTC Act by Defendant;

C. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendant's violations of the FTC Act, including but not limited to, rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies; and

D. Award Plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Respectfully submitted,

JONATHAN E. NUECHTERLEIN
General Counsel

Dated: 02/01/2016



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FEDERAL TRADE COMMISSION

FEDERAL TRADE COMMISSION DECISIONS
VOLUME 171

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Exhibit B

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

FEDERAL TRADE COMMISSION

Plaintiff,

v.

CHEMENCE, INC., an Ohio corporation,

Defendant.

Case No. 1:16-cv-228-PAG

**STIPULATED ORDER FOR
PERMANENT INJUNCTION AND
MONETARY JUDGMENT**

Plaintiff, the Federal Trade Commission ("Commission" or "FTC"), filed its Complaint for Permanent Injunction and Other Equitable Relief ("Complaint"), for a permanent injunction and other equitable relief in this matter, pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b). The Commission and Defendant stipulate to the entry of this Stipulated Order for Permanent Injunction and Monetary Judgment ("Order") to resolve all matters in dispute in this action between them.

THEREFORE, IT IS ORDERED as follows:

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FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendant participated in deceptive acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, in the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of cyanoacrylate glue as “Made in the USA” or “Proudly Made in the USA.”
3. Defendant neither admits nor denies any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendant admits the facts necessary to establish jurisdiction.
4. Defendant waives any claim that it may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agrees to bear its own costs and attorney fees.
5. Defendant waives all rights to appeal or otherwise challenge or contest the validity of this Order.

DEFINITIONS

For the purpose of this Order, the following definitions apply:

- A. “Clear(ly) and conspicuous(ly)” means that a required disclosure is difficult to miss (i.e., easily noticeable) and easily understandable by ordinary consumers, including in all of the following ways:
 1. In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented.
In any communication made through both visual and audible means, such as a

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- television advertisement, the disclosure must be presented simultaneously in both the visual and audible portions of the communication even if the representation requiring the disclosure is made in only one means.
2. A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.
 3. An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.
 4. On a product label, the disclosure must be presented on the same display panel as the claim being qualified.
 5. The disclosure must use diction and syntax understandable to ordinary consumers and must appear in each language in which the representation that requires the disclosure appears.
 6. The disclosure must comply with these requirements in each medium through which it is received, including all electronic devices and face-to-face communications.
 7. The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.
 8. When the representation or sales practice targets a specific audience, such as children, the elderly, or the terminally ill, "ordinary consumers" includes reasonable members of that group.

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- B. “Made in the United States” shall mean any representation, express or implied, that a Product or Service, or a specified component thereof, is of U.S.-origin, including, but not limited to, a representation that such Product or Service is “made,” “manufactured,” “built,” or “produced” in the United States, or any other U.S.-origin claim.
- C. “Product or Service” means any good or service offered by Defendant.

ORDER**I. PROHIBITION AGAINST MISREPRESENTATIONS**

IT IS FURTHER ORDERED that Defendant, and Defendant’s officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of cyanoacrylate glue or any other Product or Service are permanently restrained and enjoined from misrepresenting, expressly or by implication, that a Product or Service is Made in the United States, unless:

1. The final assembly or processing of the product occurs in the United States, all significant processing that goes into the product occurs in the United States, and all or virtually all ingredients or components of the product are made and sourced in the United States; or
2. A clear and conspicuous qualification appears immediately adjacent to the representation that accurately conveys the extent to which the product contains foreign parts, ingredients, and/or processing.

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II. MEANS AND INSTRUMENTALITIES

IT IS FURTHER ORDERED that Defendant, and Defendant's officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of cyanoacrylate glue or any other Product or Service must not provide to others the means and instrumentalities with which to make any representation prohibited by Part I above. For the purposes of this Part, "means and instrumentalities" means any information, including, but not necessarily limited to, any advertising, labeling, promotional, sales training, or purported substantiation materials, for use by trade customers in its marketing of any Product or Service.

III. MONETARY JUDGMENT

IT IS FURTHER ORDERED that:

- A. Judgment in the amount of Two Hundred Twenty Thousand (\$220,000) is entered in favor of the Commission against Defendant as equitable monetary relief.
- B. Defendant is ordered to pay to the Commission Two Hundred Twenty Thousand (\$220,000), which, as Defendant stipulates, its undersigned counsel holds in escrow for no purpose other than payment to the Commission. Such payment must be made within 7 days of entry of this Order by electronic fund transfer in accordance with instructions previously provided by a representative of the Commission.
- C. Defendant relinquishes dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.
- D. The facts alleged in the Complaint will be taken as true, without further proof, in any

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subsequent civil litigation by or on behalf of the Commission, including in a proceeding to enforce its rights to any payment or monetary judgment pursuant to this Order, such as a nondischargeability complaint in any bankruptcy case.

E. The facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

F. Defendant acknowledges that its Taxpayer Identification Numbers (Employer Identification Numbers), which Defendant must submit to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

G. All money paid to the Commission pursuant to this Order may be deposited into a fund administered by the Commission or its designee to be used for equitable relief, including consumer redress and any attendant expenses for the administration of any redress fund. If a representative of the Commission decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the Commission may apply any remaining money for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendant's practices alleged in the Complaint. Any money not used for such equitable relief is to be deposited to the U.S. Treasury as disgorgement. Defendant has no right to challenge any actions the Commission or its representatives may take pursuant to this Subsection.

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IV. ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Defendant obtain acknowledgments of receipt of this Order:

- A. Defendant, within 7 days of entry of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.
- B. For 5 years after entry of this Order, Defendant must deliver a copy of this Order to:
 - (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who participate in conduct related to the subject matter of the Order; and
 - (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within 7 days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.
- C. From each individual or entity to which Defendant delivered a copy of this Order, Defendant must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

V. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Defendant make timely submissions to the Commission:

- A. One year after entry of this Order, Defendant must submit a compliance report, sworn under penalty of perjury. Defendant must:
 - (a) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission may use to communicate with Defendant; (b) identify all of Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses;

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(c) describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales; (d) describe in detail whether and how Defendant is in compliance with each Section of this Order; and (e) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

B. For 20 years after entry of this Order, Defendant must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following: (a) any designated point of contact; or (b) the structure of Defendant any entity that Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

C. Defendant must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against Defendant within 14 days of its filing.

D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: "I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____" and supplying the date, signatory's full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington,

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DC 20580. The subject line must begin: FTC v. Chemence, Inc.

VI. RECORDKEEPING

IT IS FURTHER ORDERED that Defendant must create certain records for 20 years after entry of the Order, and retain each such record for 5 years. Specifically, Defendant must create and retain the following records:

- A. Accounting records showing the revenues from all goods or services sold;
- B. Personnel records showing, for each person providing services, whether as an employee or otherwise, that person's name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;
- C. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission;
- D. A copy of each unique advertisement or other marketing material;
- E. All materials that were relied upon in disseminating the representation; and
- F. All tests, reports, studies, surveys, demonstrations, or other evidence in its possession or control that contradict, qualify, or call into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations.

VII. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendant's compliance with this Order, including any failure to transfer any assets as required by this Order:

- A. Within 14 days of receipt of a written request from a representative of the Commission, Defendant must submit additional compliance reports or other requested information, which

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must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The Commission is also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

B. For matters concerning this Order, the Commission is authorized to communicate directly with Defendant. Defendant must permit representatives of the Commission to interview any employee or other person affiliated with Defendant who has agreed to such an interview. The person interviewed may have counsel present.

C. The Commission may use all other lawful means, including posing, through its representatives as consumers, suppliers, or other individuals or entities, to Defendant or any individual or entity affiliated with Defendant, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

VIII. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

SO ORDERED this 13th day of October, 2016.

/s/ Patricia A. Gaughan

PATRICIA A. GAUGHAN
UNITED STATES DISTRICT JUDGE

FEDERAL TRADE COMMISSION DECISIONS
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SO STIPULATED AND AGREED:**FOR PLAINTIFF:**

Date: 10/6/2016

Julia Solomon Ensor
Colin D. A. MacDonald
Federal Trade Commission
600 Pennsylvania Ave. NW
Mail-Stop CC-9528
Washington, DC 20580
202-326-2377 (Ensor)
202-326-3192 (MacDonald)
202-326-3197 (Fax)
jensor@ftc.gov
cmacdonald@ftc.gov

Attorneys for Plaintiff
FEDERAL TRADE COMMISSION

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FOR DEFENDANT:Date: 8/21/16

Helen Mac Murray – Reg. # 0038782

Lisa A. Messner – Reg. # 0074034

Erika Frank – Reg. # 0095179

Mac Murray, Petersen & Shuster LLP

6530 West Campus Oval, Suite 210

New Albany, Ohio 43054

Telephone: 614-939-9955

Facsimile: 614-939-9954

E-mail: hmacmurray@mpslawyers.com

E-mail: lmessner@mpslayers.com

E-mail: efrank@mpslawyers.com

Attorneys for Defendant
CHEMENCE, INC.

DEFENDANT: Chemence, Inc.Date: August 2, 2016

Hugh Cooke

President, Chemence, Inc.

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

FEDERAL TRADE COMMISSION

Plaintiff,

v.

CHEMENCE, INC., an Ohio corporation,

Defendant.

Case No. 1:16-cv-228-PAG

ACKNOWLEDGMENT BY
AFFIDAVIT OF RECEIPT
OF ORDER BY
DEFENDANT CHEMENCE,
INC.

1. My name is _____, my job title is _____, and I am authorized to accept service of process on Chemence, Inc.. I am a U.S. citizen over the age of eighteen, and I have personal knowledge of the facts set forth in this Acknowledgment.
2. Chemence, Inc. was a Defendant in *FTC v. Chemence, Inc.*, which is the court case listed near the top of this page.
3. On [_____, 201_], Chemence, Inc. received a copy of the Stipulated Order for Permanent Injunction and Monetary Judgment, which was signed by the Honorable Patricia A. Gaughan and entered by the Court on [_____, 201_]. The copy of the Order attached to this Acknowledgment is a true and correct copy of the Order it received.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on [_____, 201_].

[NAME]

[Officer] of Chemence, Inc.

State of _____, City of _____

Subscribed and sworn to before me
this _____ day of _____, 201__.

Notary Public

My commission expires: _____

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

FEDERAL TRADE COMMISSION

Plaintiff,

v.

CHEMENCE, INC., an Ohio corporation,

Defendant.

Case No. 1:16-cv-228-PAG

**ACKNOWLEDGMENT BY
DECLARATION OF
RECEIPT OF ORDER BY
NON PARTY**

I, _____, received a copy of the Stipulated Order for Permanent Injunction and Monetary Judgment, in *FTC v. Chemence, Inc.*, on _____, 20____.

I was not a Defendant in that court case. My title or relationship with Defendant Chemence, Inc. is _____.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on _____, 20____.

Signed:

FEDERAL TRADE COMMISSION DECISIONS
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Exhibit C

 Telephone (440) 708-0445 Robert D. Wilson* E-mail: rdwilson@wwcolpa.com Licensed: *Ohio; +Georgia	WILSON & WILSON CO., L.P.A. 16716 Chillicothe Road, Suite 100 Chagrin Falls, Ohio 44023	Fax (440) 708-0511 Michael J. Wilson* mjwilson@wwcolpa.com
--	--	---

October 17, 2017

SENT VIA EMAIL ONLY TO DEbrief@ftc.gov

Re: FTC v. Chemence, Inc.
Case No.: 1:16-cv-228
U.S. District Court, Northern District of Ohio

To whom it may concern:

Enclosed please find the attached compliance report from Chemence, Inc. pursuant to the Stipulated Order for the above mentioned case. Also attached are Acknowledgements and a Product Labeling Schedule as part of such compliance report.

Should you have any questions, comments or need further information, please feel free to contact me.

Sincerely,


Robert D. Wilson

Enclosures

1 of 1

Complaint

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO

FEDERAL TRADE COMMISSION,	)	
	)	
Plaintiff,	)	
	)	Case No.: 1:16-cv-228
v.	)	
	)	
CHEMENCE, INC.	)	
	)	
Defendant.	)	

**CHEMENCE, INC.'S ONE YEAR COMPLIANCE REPORT
PURSUANT TO STIPULATED ORDER FOR PERMANENT
INJUNCTION AND MONETARY JUDGMENT**

Defendant Chemence, Inc. ("Chemence") hereby submits the following compliance report pursuant to the Stipulated Order for Permanent Injunction and Monetary Judgment (the "Order") on or about one year after entry of the Order, which was entered in this case on October 13, 2016. As required by Section V. COMPLIANCE REPORTING A.(d) of the Order, this report describes in detail whether and how Chemence is in compliance with each Section of this Order.

DETAILED DESCRIPTION OF CHEMENCE'S COMPLIANCE EFFORTS

As required by the Order, this section describes in detail "whether and how Defendant is in compliance with each Section of this Order." Specifically, the actions Chemence has taken and is taking to comply with each Section of the Order are described below. To assure future compliance with the Order, Chemence has instructed members of its respective staffs having responsibility for the requirements of the Order and of their responsibility to ensure compliance with the Order. The specific contents of those instructions reflect confidential legal advice and are protected from disclosure pursuant to the attorney-client privilege and the work product doctrine. Because the Order principally restricts deceptive acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, in the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of cyanoacrylate glue as "Made in the USA," which is already subject to the supervision and control of its respective key personnel in the ordinary course of Chemence's business, Chemence is confident that those instructions are sufficient to ensure compliance with the Order. Nonetheless, where Chemence believes that additional measures are prudent to further compliance with specific provisions of the Order, they are further described below.

I. PROHIBITION AGAINST MISREPRESENTATIONS

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Section I prohibits Chemence and its officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of cyanoacrylate glue or any other Product or Service from misrepresenting, expressly or by implication, that a Product or Service is Made in the United States, unless:

1. The final assembly or processing of the product occurs in the United States, all significant processing that goes into the product occurs in the United States, and all or virtually all ingredients or components of the product are made and sourced in the United States; or
2. A clear and conspicuous qualification appears immediately adjacent to the representation that accurately conveys the extent to which the product contains foreign parts, ingredients, and/or processing.

Chemence has informed current employees and will inform new employees responsible for manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of cyanoacrylate glue or any other Product or Service regarding the requirements of this Order. In compliance with the Order, Chemence has changed the labeling on all of Chemence's cyanoacrylate glue/superglue adhesive products sold, distributed, or offered for sale or distribution, by or on behalf of Chemence to consumers to read "Made in USA with US and globally sourced materials." The labels on Chemence's products for industrial and non-consumer use do not reference any country of origin so that no change in labeling was required in connection with the Order. See the attached Products Schedule for revised product labeling. In addition, Chemence has informed affected business customers of the Order and its requirements and that Chemence has changed the labeling on all of Chemence's cyanoacrylate glue/superglue adhesive products sold, distributed or offered for sale or distribution, by or on behalf of Chemence to consumers to read "Made in USA with US and globally sourced materials." These actions are in fulfillment of the implementation plan previously submitted by Chemence to the FTC to comply with the Order.

II. MEANS AND INSTRUMENTALITIES

Section II prohibits Chemence and its officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of cyanoacrylate glue or any other Product or Service from providing to others the means and instrumentalities with which to make any representation prohibited by Part I above.

Chemence has informed current employees and will inform new employees responsible for manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of cyanoacrylate glue or any other Product or Service regarding the requirements of this Order regarding use by trade customers in their marketing of any Product or Service. Chemence has informed its affected business customers of the Order and its requirements and that Chemence has changed the labeling on all of Chemence's cyanoacrylate glue/superglue adhesive products

Complaint

sold, distributed or offered for sale or distribution, by or on behalf of Chemence to consumers to read "Made in USA with US and globally sourced materials." In addition, customers are not permitted to unilaterally change any advertising, labeling, promotional, sales training, or substantiation materials provided to them by Chemence. Furthermore, any advertising, labeling, promotional, sales training, or substantiation materials desired to be used by customers, which was not provided to them by Chemence, must be approved by Chemence in advance of use. Since the date of the Order, Chemence has not approved any customer initiated material changes for use and is in compliance with this Section.

III. MONETARY JUDGMENT

Section III required Chemence to pay the FTC Two Hundred Twenty Thousand Dollars (\$220,000) as equitable monetary relief. Chemence complied with this requirement by timely paying the FTC Hundred Twenty Thousand Dollars (\$220,000) on or about October 20, 2016. The rest of Section III does not impose any other relevant compliance obligations on Chemence.

IV. ORDER ACKNOWLEDGMENTS

Section IV imposes certain obligations on Chemence to obtain acknowledgments of receipt of the Order and deliver a copy to all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who participate in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within 7 days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities. From each individual or entity to which Chemence delivered a copy of this Order, Chemence must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order. Chemence has complied with this Section by delivering the Order to and receiving Acknowledgements from the following individuals:

Hugh V. Cooke – Chief Executive Officer and Director;
James Cooke – President and Director;
Michael Pomykala - Global Marketing Director; and
Jason Schmidt – Controller.

V. COMPLIANCE REPORTING

Section V imposes certain obligations on Chemence to make timely submissions to the Commission one year after entry of the Order by submitting this Compliance Report. Chemence must do the following:

A. (a) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission may use to communicate with Defendant;

James Cooke – President
185 Bluegrass Valley Parkway, Alpharetta, GA 30005

Complaint

jcooke@chemence.com
Phone no. 404-434-8327

(b) identify all of Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses;

Chemence, Inc.
770-664-6624
185 Bluegrass Valley Parkway, Alpharetta, GA 30005
<http://www.chemence.com/>

(c) describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales;

Chemence is considered a single business. Chemence is a specialty performance chemical manufacturer that sells formulated resins. Product lines include adhesives for industrial, medical and consumer applications, photopolymers for flexographic printing and hand stamps, and vacuum impregnation sealants to seal porous metal castings. Chemence products are sold and marketed in business-to-business and business-to-consumer segments. The consumer product line is sold directly to major retailers and private labeled goods. The industrial product lines (including adhesives, photopolymers and impregnation sealants) are sold to industrial customers either directly or through distribution channels. Advertising for all product lines include a high mix of tradeshow, print ads, social media channels, digital ads and direct selling.

(d) describe in detail whether and how Defendant is in compliance with each Section of this Order;

As described in this Compliance Report.

(e) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

Attached hereto.

B. For 20 years after entry of this Order, Defendant must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following: (a) any designated point of contact; or (b) the structure of Defendant any entity that Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

There have been no such changes since the date of the Order.

C. Defendant must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against Defendant within 14 days of its filing.

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There have been no such proceedings since the date of the Order.

D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746.

Such oath has been stated hereinafter.

E. All submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov with the subject line beginning: FTC v. Chemence, Inc.

This Compliance Report was emailed to DEbrief@ftc.gov with such subject line.

VI. RECORDKEEPING

Section VI. imposes obligations on Chemence to create certain records for 20 years after entry of the Order, and retain each such record for 5 years. Chemence must create and retain the following records:

A. Accounting records showing the revenues from all goods or services sold;

These accounting records have been and will be created and retained for the specified periods.

B. Personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;

These personnel records have been and will be created and retained for the specified periods.

C. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission;

These compliance records have been and will be created and retained for the specified periods.

D. A copy of each unique advertisement or other marketing material;

Unique advertisement and marketing materials have been and will be retained for the specified periods.

E. All materials that were relied upon in disseminating the representation;

All materials that were relied upon in disseminating the representation have been and will be retained for the specified periods.

F. All tests, reports, studies, surveys, demonstrations, or other evidence in its possession or control that contradict, qualify, or call into question the representation, or the basis relied upon

Complaint

for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations.

All tests, reports, studies, surveys, demonstrations, or other evidence in Chemence's possession or control that contradict, qualify, or call into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations have been and will be retained for the specified periods.

VII. COMPLIANCE MONITORING

Section VII imposes certain obligations on Chemence to timely respond to requests of the Commission. Also, the Commission is authorized to communicate directly with Chemence and Chemence must permit representatives of the Commission to interview any employee or other person affiliated with Chemence who has agreed to such an interview. Further, the Commission may use all other lawful means, including posing, through its representatives as consumers, suppliers, or other individuals or entities, to Chemence or any individual or entity affiliated with Chemence, without the necessity of identification or prior notice.

This Section does not impose any current compliance obligation on Chemence, since to the best of Chemence's information, knowledge and belief there have been no such requests, communication initiatives or posing by the Commission after the date of the Order. However, should Chemence receive any requests, communication initiatives or posing by the Commission, Chemence will comply with the requirements of Section VII. of the Order.

VIII. RETENTION OF JURISDICTION

Section VIII orders that the trial Court retain jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

Section VIII of the Order does not impose any relevant compliance obligations on Chemence.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: October 13, 2017

Chemence, Inc.



By: James Cooke
Its: President

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Chemence, Inc. Product Labeling Schedule	
Line Item No.	Labeling: Revised = "Made In USA with US and globally sourced materials" or "blank" for no country of origin marking
000000AC6126 000000FN300 000000MSA 000000SSM 000000UV50 0-010-0035 0-010-0037 0-010-0052 0-010-0056 0-010-0057 0-010-0058 0-010-0059 0-010-0098 0-010-0181 0-010-0182 0-025-0046 0-025-0071 0-025-0072 0-025-0073 0-025-0083 0-025-0085 0-025-0086 0-025-0179 0-025-0180 0049050 0049250 014-1007 014-WC1 030-WC1 031-WC1 032-WC1 034-WC1 035562/8930414 035563/8928340 035576/ 8930453 0401374919-1 040-WC1 041-WC1 042-WC1 060-WC1 060-WC1 1-001-0003	

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1-005-0003	
1-005-0004	
1-005-0005	
1-005-0008	
1-005-0010	
1-005-0016	
1-010-0049	
1-010-0051	
1-010-0053	
1-010-0079	
1-010-0100	
1-010-0109	
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1-025-0040	
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1-025-0074	
1-025-0077	
1-025-0098	
1-025-0108	
1-025-0116	
1-025-0162	
1-025-0166	
1-025-0171	
1-025-0172	
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1-030-0034	
1-035-503-2170	REVISED
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1-035-530-0172	
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1-035-554-8224G	
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1-036-646-0046X	
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1-040-534-0009	
1-040-534-0012	

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1-040-554-0016
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1-040-647-0001
1-040-661-0002
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10436011
10437015
10438008
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1-045-0049
1-045-0070
1-050-0060
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502 204 AC344	
502 512 HC100	
502 512 HC90	
502 512 HC90M	
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502 515 HC100M	
502 515 HC90	
502 515 HC90CJ	
502 515 HC90M	
502 517 FX1	
502 517 GS27932	
502 517 RT20	
502 517 RT20PM	
502 528 AC7001	
502 588 HC100M	
502 588 HC90R	
502 588 RT20PM	
502 588 RT20PM-V	
502 588 WC90R	
502 999 2REWORK	
502 999 NEMAK1	
502 999 NEMAK2	
502 999 NEMAK5	
503 0001	REVISED
503 0002	REVISED
503 0003	REVISED
503 0004	REVISED
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503 0006	REVISED
503 0007	REVISED
503 0008	REVISED
503 0009	REVISED
503 0014	REVISED
503 0015	REVISED
503 0016	REVISED
503 0017	REVISED
503 0018	REVISED
503 00201	REVISED
503 00206-4	REVISED
503 012 02109	REVISED
503 020 5000D	REVISED
503 028 02107	REVISED
503 028 02108	REVISED
503 036 02110	REVISED
503 5000B	REVISED
503 5000S	REVISED
503 524 AC12A	
503 725 00893	REVISED
503 725 MGL300	REVISED

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504 036 SIGEL	REVISED
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507 003 SIS	
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507 020 BINGL102C	
507 204 PR600	
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509 015 EC40	
509 015 EC5	
509 015 EC600	
509 015 PR100	
509 015 PR1500	
509 015 PR4000	
509 015 PR5	
509 015 PR51	
509 015 PR600	
509 015 SF20	
509 015 SF5	
509 015 SI1500	
509 015 SI300	
509 079 EC5	
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509 512 AC12	
509 514 PR5	
509 516 AC45	
509 530 AC45P	
509 534 AC45	
509 534 AC70	
509 541 SIGEL	
509 553 AC45A	
509 612 CA/AC	
509 654 EC100	
510 516 AC10F	
510 586 SI100	
510 637 AC10P	
511 554 5235FR	
511 590 FM0003	
515 514 AC306	
515 516 AC45	
515 524 AC12P	
530 224 19967	
530 259 21203	
530 625 24163	
530 695 19965	
530 701 24206P	
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534 020 BINGL102C	
534 020 FMAA01BR	
534 020 GEL103	
534 020 GEL103BR	
534 020 GEL103C	
534 020 GFGL200F	

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534 020 MAA01	
534 036 GL311	
534 036 GL311B	
534 036 GL400	
534 BGD102C	
534 BOG303	
534 BOG304	
534 BOG402	
534 DGBGL01	
534 DGBGL02	
534 DGBGL03	
534 DGBGL04	
534 DGBL04	
534 FDSET02P4	
534 GL307	
534 GL307B	
534 GL307BR	
534 GL307V	
534 GL308	
534 GL309	
534 gl309b	
534 GL310	
534 GL312	
534 GL313	
534 GL314	
534 GL507	
534 GL508	
534 GL509	
534 GL511	
534 KBGL01C	
534 KBGL02C	
534 KBGL03C	
534 KBGL04BR	
534 KBGL04C	
534 KBGL05C	
534 KBOG303	
534 KBOG304	
539 027 DD6594	
539 027 DD6601	
539 028 DD6608	
539 038 6615	
539 106 6670	
539 106 6684	
539 173 6636	
539 173 6643	
539 173 6650	
539 173 6657	
539 186 DD6621	
539 570 6659	
539 570 DD6587	
539 570 DD6588	
539 595 6673	
539 595 6687	
539 600 DD6585	
539 600 DD6612	

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547 027 EC9EL
547 029 TL42
547 029 TL71
547 570 RVM
547 600 SI40
547 613 TL42
547 613 TL71
549 015 EC100
550 524 AC11P
550 524 AC68B
550 524 SI1500
550 524 SI300
550 524 SI5
550 530 AC11
550 530 SI1500
550 530 SI300
550 530 SI5
550 569 CAACDB
554 570 08752
554 612 CA/AC
563 012 5320
563 012 5325
563 012 5345
563 012 5350
563 020 5300
563 020 5305
563 020 5310
563 020 5315
563 020 5340
563 514 5365
563 514 5370
563 514 5380
571 026 EC2500
574 524 AC11P
576 186 SI100
576 186 SI1500
576 186 SI5
576 637 AC68A
585 077 PR100
585 077 TL42
585 077 TL43
585 079 EC100
585 079 EC600
585 079 PR100
585 079 PR4000
585 079 PR600
585 079 SI100A
585 079 SI40
585 079 SI600
585 079 SIGEL
585 516 AC68
585 554 EC100
585 554 SI1500
585 555 AC12
585 555 AC77

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585 654 PR100	
590 010 KP640	REVISED
590 010 KP6497	REVISED
590 010 KR096	REVISED
590 010 KS455	REVISED
590 010 KT422	REVISED
590 010 KT432	REVISED
590 010 KT622	REVISED
590 010 KT712	REVISED
590 010 KT902	REVISED
590 015 KB014	REVISED
590 015 KB0144	REVISED
590 015 KB0164	REVISED
590 015 KB034	REVISED
590 015 KB044	REVISED
590 015 KB0614	REVISED
590 015 KB064	REVISED
590 015 KB144	REVISED
590 015 KB1614	REVISED
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Complaint

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Complaint

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Complaint

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Complaint

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Complaint

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Complaint

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Complaint

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Complaint

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Complaint

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FEDERAL TRADE COMMISSION DECISIONS
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JSRIPDRV JST69CLNSOL JSTECTRIV JSV24200 JSV44200 JSV60200 JSX364CR24 SB311M SB311M-1 VB50801252 VB50801552 VB50802502 ZRM105 ZRM94	
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Complaint

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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

FEDERAL TRADE COMMISSION

Plaintiff,

v.

CHEMENCE, INC., an Ohio corporation,

Defendant.

Case No. 1:16-cv-228-PAG

**ACKNOWLEDGMENT BY
DECLARATION OF
RECEIPT OF ORDER BY
NON PARTY**

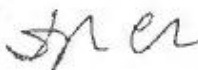
I, Hugh Cooke, received a copy of the Stipulated Order for Permanent Injunction and Monetary Judgment, in *FTC v. Chemence, Inc.*, on October 13, 2016.

I was not a Defendant in that court case. My title or relationship with Defendant Chemence, Inc. is Chief Executive Officer and Director.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: Oct. 17, 2016.

Signed: X



Complaint

Case: 1:16-cv-00228-PAG Doc #: 53 Filed: 10/13/16 14 of 14, PageID #: 584

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

FEDERAL TRADE COMMISSION

Plaintiff,

v.

CHEMENCE, INC., an Ohio corporation,

Defendant.

Case No. 1:16-cv-228-PAG

ACKNOWLEDGMENT BY
DECLARATION OF
RECEIPT OF ORDER BY
NON PARTY

I, James Cooke, received a copy of the Stipulated Order for Permanent Injunction and Monetary Judgment, in *FTC v. Chemence, Inc.*, on October 13, 2016.

I was not a Defendant in that court case. My title or relationship with Defendant Chemence, Inc. is President and Director.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on Oct. 17, 2016.

Signed: X



Complaint

Case: 1:16-cv-00228-PAG Doc #: 53 Filed: 10/13/16 14 of 14. PageID #: 584

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

FEDERAL TRADE COMMISSION

Plaintiff,

v.

CHEMENCE, INC., an Ohio corporation,

Defendant.

Case No. 1:16-cv-228-PAG

ACKNOWLEDGMENT BY
DECLARATION OF
RECEIPT OF ORDER BY
NON PARTY

I, Michael Pomykala, received a copy of the Stipulated Order for Permanent Injunction and Monetary Judgment, in *FTC v. Chemence, Inc.*, on October 13, 2016.

I was not a Defendant in that court case. My title or relationship with Defendant Chemence, Inc. is Global Marketing Director.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on Oct. 17, 2016

Signed: X 

Complaint

Case: 1:16-cv-00228-PAG Doc #: 53 Filed: 10/13/16 14 of 14. PageID #: 584

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

FEDERAL TRADE COMMISSION

Plaintiff,

v.

CHEMENCE, INC., an Ohio corporation,

Defendant.

Case No. 1:16-cv-228-PAG

ACKNOWLEDGMENT BY
DECLARATION OF
RECEIPT OF ORDER BY
NON PARTY

I, Jaxon Schmidt, received a copy of the Stipulated Order for Permanent Injunction and Monetary Judgment, in *FTC v. Chemence, Inc.*, on October 13, 2016.

I was not a Defendant in that court case. My title or relationship with Defendant Chemence, Inc. is Controller.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on Oct 17, 2016.

Signed: X J.P. Schmidt

Complaint

Exhibit D



Exhibit D
p. 1 of 6

Complaint



Complaint



Complaint



PANTONE® BLACK C

PANTONE® 186 C

Complaint

SAATI
 201 Fairview St. Extension
 Fountain Inn, SC 29644
 Tel: 800-431-2200
 Fax: 804-862-0089
 Hours: Monday - Friday 8:30am - 5:00pm
 EST
 www.saati.com
 Email: info.us@saati.com

24-hour Emergency Telephone #
 info@saati.com (in US): 1-800-535-5053
 International: +1-352-323-3500

Trademark of The SAATI Group
 FOR INDUSTRIAL USE ONLY

FIRST AID
EYES: Flush with water, seek medical attention.
SKIN: Soak in warm soapy water.
INGESTION: Ingestion not likely due to polymerization.
INHALATION: If breathed in, move person into fresh air. If not breathing, give artificial respiration. Consult a physician.

SPILL RESPONSE
 Ventilate area of spill. Flood area with water to polymerize. Absorb with sand / earth and dispose in accordance with local, state, and federal regulations.

STORAGE AND HANDLING
 Material should be stored at or below 22°C.
 Avoid skin contact and inhalation of vapor.



ULTRAFIX CA - MV

1 Part Cyanoacrylate Spray- Activated Frame Adhesive

DIRECTIONS FOR USE: To obtain optimal adhesion, degrease the frame. Stretch the fabric over the frame providing good contact between the two. Squeeze a thin bead of adhesive onto fabric around the frame perimeter and spread evenly. Lightly spray the applied adhesive with Ultrafix CA Activator A (aerosol) or Ultrafix CA Activator P (pump style), which sets in less than 30 seconds. Release tension and remove the screen from the stretching system.

FIRE RESPONSE
 Use water spray, alcohol-resistant foam, dry chemical or carbon dioxide.
 Wear self contained breathing apparatus for fire fighting if necessary.


WARNING



SCAS03300LOZ16



7xxxxxxxxxxx

GHS CLASSIFICATIONS
 Skin Irritation, Category 3 Eye Irritation, Category 2A Flammable Liquids, Category 4

HAZARD STATEMENTS
H227 : Combustible liquid. **H316** : Causes mild skin irritation. **H319** : Causes serious eye irritation.

PRECAUTIONARY STATEMENTS
P210 : Keep away from heat, hot surfaces, sparks, open flames and other ignition sources. No smoking. **P280** : Wear protective gloves/protective clothing/eye protection/face protection. **P264** : Wash skin thoroughly after handling. **P370+P378** : In case of fire: Use water spray, alcohol resistant foam, dry chemical or carbon dioxide to extinguish. **P332+P313** : If skin irritation occurs: Get medical advice/attention. **P305+P351+P338** : IF IN EYES: Rinse cautiously with water for several minutes. Remove contact lenses, if present and easy to do. Continue rinsing. **P337+P313** : If eye irritation persists: Get medical advice/attention. **P403** : Store in a well-ventilated place. **P501** : Dispose of contents/container in accordance to federal/state/local regulations.

16 OZ

MADE IN THE USA

02/26/2020

Decision and Order

**DECISION**

The Federal Trade Commission (“Commission”) initiated an investigation of certain acts and practices of the Respondents named in the caption. The Commission’s Bureau of Consumer Protection (“BCP”) prepared and furnished to Respondents a draft Complaint. BCP proposed to present the draft Complaint to the Commission for its consideration. If issued by the Commission, the draft Complaint would charge the Respondents with violations of the Federal Trade Commission Act.

Respondents and BCP thereafter executed an Agreement Containing Consent Order (“Consent Agreement”). The Consent Agreement includes: 1) statements by Respondents that they neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Decision and Order, and that only for purposes of this action, they admit the facts necessary to establish jurisdiction; and 2) waivers and other provisions as required by the Commission’s Rules.

The Commission considered the matter and determined that it had reason to believe that Respondents have violated the Federal Trade Commission Act, and that a Complaint should issue stating its charges in that respect. The Commission accepted the executed Consent Agreement and placed it on the public record for a period of 30 days for the receipt and consideration of public comments. The Commission duly considered any comments received from interested persons pursuant to Section 2.34 of its Rules, 16 C.F.R. § 2.34. Now, in further conformity with the procedure prescribed in Rule 2.34, the Commission issues its Complaint, makes the following Findings, and issues the following Order:

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Findings

1. The Respondents are:
 - a. Respondent Chemence, Inc., an Ohio corporation with its principal office or principal place of business at 185 Bluegrass Valley Parkway, Alpharetta, GA 30005.
 - b. Respondent James Cooke, an officer of the Corporate Respondent, Chemence, Inc. Individually or in concert with others, he controlled or had the authority to control, or participated in the acts and practices of Chemence, Inc. His principal office or place of business is the same as that of Chemence, Inc.
2. The Commission has jurisdiction over the subject matter of this proceeding and over the Respondents, and the proceeding is in the public interest.

ORDER**Definitions**

For purposes of this Order, the following definitions apply:

- A. **“Clear(ly) and conspicuous(ly)”** means that a required disclosure is difficult to miss (i.e., easily noticeable) and easily understandable by ordinary consumers, including in all of the following ways:
 1. In any communication that is solely visual or solely audible, the disclosure must be made through the same means through which the communication is presented. In any communication made through both visual and audible means, such as a television advertisement, the disclosure must be presented simultaneously in both the visual and audible portions of the communication even if the representation requiring the disclosure (“triggering representation”) is made through only one means.
 2. A visual disclosure, by its size, contrast, location, the length of time it appears, and other characteristics, must stand out from any accompanying text or other visual elements so that it is easily noticed, read, and understood.
 3. An audible disclosure, including by telephone or streaming video, must be delivered in a volume, speed, and cadence sufficient for ordinary consumers to easily hear and understand it.
 4. In any communication using an interactive electronic medium, such as the Internet or software, the disclosure must be unavoidable.

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5. On a product label, the disclosure must be presented on the principal display panel.
 6. The disclosure must use diction and syntax understandable to ordinary consumers and must appear in each language in which the triggering representation appears.
 7. The disclosure must comply with these requirements in each medium through which it is received, including all electronic devices and face-to-face communications.
 8. The disclosure must not be contradicted or mitigated by, or inconsistent with, anything else in the communication.
 9. When the representation or sales practice targets a specific audience, such as children, the elderly, or the terminally ill, “ordinary consumers” includes reasonable members of that group.
- B. **“Made in the United States”** means any representation, express or implied, that a product or service, or a specified component thereof, is of U.S.-origin, including, but not limited to, a representation that such product or service is “made,” “manufactured,” “built,” “produced,” or “crafted” in the United States or in America, or any other U.S.-origin claim.
- C. **“Respondents”** means the Corporate Respondent and the Individual Respondent, individually, collectively, or in any combination.
1. “Corporate Respondent” means Chemence, Inc., and its successors and assigns.
 2. “Individual Respondent” means James Cooke.

Provisions**I.****Prohibited Misrepresentations Regarding U.S.-Origin Claims**

IT IS ORDERED that Respondents, and Respondents’ officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any cyanoacrylate glue product, or any other product or service, must not make any representation, expressly or by implication, that a product is Made in the United States unless:

- A. The final assembly or processing of the product occurs in the United States, all significant processing that goes into the product occurs in the United States, and

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all or virtually all ingredients or components of the product are made and sourced in the United States; or

- B. A Clear and Conspicuous qualification appears immediately adjacent to the representation that accurately conveys the extent to which the product contains foreign parts, ingredients or components, and/or processing; or
- C. For a claim that a product is assembled in the United States, the product is last substantially transformed in the United States, the product's principal assembly takes place in the United States, and United States assembly operations are substantial.

II.**Prohibited Misleading and Unsubstantiated Country-of-Origin Representations**

IT IS FURTHER ORDERED that Respondents, and Respondents' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any cyanoacrylate glue product, or any other product or service, must not make any representation, expressly or by implication, regarding the country of origin of any product or service unless the representation is non-misleading, including that, at the time such representation is made, Respondents possess and rely upon a reasonable basis for the representation.

III.**Means and Instrumentalities**

IT IS FURTHER ORDERED that Respondents, and Respondents' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the manufacturing, labeling, advertising, promotion, offering for sale, sale, or distribution of any cyanoacrylate glue product, or any other product or service, must not provide to others the means and instrumentalities with which to make any representation prohibited by Provision I or II above. For the purposes of this Provision, "means and instrumentalities" means any information, including, but not necessarily limited to, any advertising, labeling, promotional, sales training, or purported substantiation materials, for use by trade customers in the marketing of any product or service.

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**IV.
Monetary Relief**

IT IS FURTHER ORDERED that:

- A. Respondents must pay to the Commission \$1,200,000, which Respondents stipulate their undersigned counsel holds in escrow for no purpose other than payment to the Commission.
- B. Such payment must be made within 8 days of the effective date of this Order by electronic fund transfer in accordance with instructions provided by a representative of the Commission.

**V.
Additional Monetary Provisions**

IT IS FURTHER ORDERED that:

- A. Respondents relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.
- B. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission to enforce its rights to any payment pursuant to this Order, such as a nondischargeability complaint in any bankruptcy case.
- C. The facts alleged in the Complaint establish all elements necessary to sustain an action by or on behalf of the Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.
- D. All money paid to the Commission pursuant to this Order may be deposited into a fund administered by the Commission or its designee to be used for relief, including consumer redress and any attendant expenses for the administration of any redress fund. If a representative of the Commission decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the Commission may apply any remaining money for such other relief (including consumer information remedies) as it determines to be reasonably related to Respondents' practices alleged in the Complaint. Any money not used is to be deposited to the U.S. Treasury. Respondents have no right to challenge any activities pursuant to this Provision.
- E. In the event of default on any obligation to make payment under this Order, interest, computed as if pursuant to 28 U.S.C. § 1961(a), shall accrue from the date of default to the date of payment. In the event such default continues for 10

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days beyond the date that payment is due, the entire amount will immediately become due and payable.

- F. Each day of nonpayment is a violation through continuing failure to obey or neglect to obey a final order of the Commission and thus will be deemed a separate offense and violation for which a civil penalty shall accrue.
- G. Respondents acknowledge that their Taxpayer Identification Numbers (Social Security or Employer Identification Numbers) may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

VI.**Customer Information**

IT IS FURTHER ORDERED that Respondents must directly or indirectly provide sufficient customer information, including sufficient identification of all resellers, to enable the Commission to efficiently administer consumer redress. If a representative of the Commission requests in writing any information related to redress, Respondents must provide it, in the form prescribed by the Commission representative, within 14 days.

VII.**Notice to Customers**

IT IS FURTHER ORDERED that Respondents must notify customers as follows:

- A. Respondents must identify all third-party trade customers who purchased pre-labeled or pre-packaged cyanoacrylate glue products from Corporate Respondent with unqualified representations that the products were Made in the United States on or after October 13, 2016 (“Eligible Customers”).
 - 1. Such Eligible Customers, and their contact information, must be identified to the extent such information is in Respondents’ possession, custody, or control;
 - 2. Eligible Customers include those identified at any time, including after Respondents’ execution of the Agreement through the eligibility period, which runs for 1 year after the issuance date of the Order.
- B. Respondents must notify all identified Eligible Customers by mailing or emailing each a notice in the form shown in Attachment A. The communication containing the notification letter may contain a copy of this Order, but no other document or enclosure.

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- C. Respondents must notify all Eligible Customers within 30 days after the issuance date of this Order and any Eligible Customers identified thereafter within 30 days of their identification.
- D. Respondents must report on their notification program under penalty of perjury:
 - 1. Respondents must submit a report within 60 days of entry of this Order and at the conclusion of the program summarizing its compliance to date.
 - 2. If a representative of the Commission requests any information regarding the program, including any of the underlying customer data, Respondents must submit it within 10 days of the request.
 - 3. Failure to provide required notices or any requested information will be treated as a continuing failure to obey this Order.

VIII.**Acknowledgments of the Order**

IT IS FURTHER ORDERED that Respondents obtain acknowledgments of receipt of this Order:

- A. Each Respondent, within 10 days after the effective date of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.
- B. Individual Respondent, for any business that such Respondent, individually or collectively with Corporate Respondent, is the majority owner or controls directly or indirectly, and Corporate Respondent must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees having managerial responsibilities for conduct related to the subject matter of the Order and all agents and representatives who participate in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure as set forth in the Provision titled Compliance Reports and Notices. Delivery must occur within 10 days after the effective date of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.
- C. From each individual or entity to which a Respondent delivered a copy of this Order, that Respondent must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

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IX.**Compliance Reports and Notices**

IT IS FURTHER ORDERED that Respondents make timely submissions to the Commission:

- A. One year after the issuance date of this Order, each Respondent must submit a compliance report, sworn under penalty of perjury, in which:
 - 1. Each Respondent must: (a) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission may use to communicate with Respondent; (b) identify all of that Respondent's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales, and the involvement of any other Respondent (which Individual Respondent must describe if he knows or should know due to his own involvement); (d) describe in detail whether and how that Respondent is in compliance with each Provision of this Order, including a discussion of all of the changes the Respondent made to comply with the Order; and (e) provide a copy of each Acknowledgment of the Order obtained pursuant to this Order, unless previously submitted to the Commission.
 - 2. Additionally, Individual Respondent must: (a) identify all his telephone numbers and all his physical, postal, email and Internet addresses, including all residences; (b) identify all his business activities, including any business for which such Respondent performs services, whether as an employee or otherwise, and any entity in which such Respondent has any ownership interest; and (c) describe in detail such Respondent's involvement in each such business activity, including title, role, responsibilities, participation, authority, control, and any ownership.
- B. Each Respondent must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:
 - 1. Each Respondent must submit notice of any change in: (a) any designated point of contact; or (b) the structure of Corporate Respondent or any entity that Respondent has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

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2. Additionally, Individual Respondent must submit notice of any change in:
(a) name, including alias or fictitious name, or residence address; or (b) title or role in any business activity, including (i) any business for which such Respondent performs services, whether as an employee or otherwise, and (ii) any entity in which such Respondent has any ownership interest and over which Respondents have direct or indirect control. For each such business activity, also identify its name, physical address, and any Internet address.
- C. Each Respondent must submit notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Respondent within 14 days of its filing.
- D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____” and supplying the date, signatory’s full name, title (if applicable), and signature.
- E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: In re Chemence, Inc., X160032.

X.**Recordkeeping**

IT IS FURTHER ORDERED that Respondents must create certain records and retain each such record for 5 years. Specifically, Corporate Respondent and Individual Respondent, for any business that such Respondent, individually or collectively with Corporate Respondent, is a majority owner or controls directly or indirectly, must create and retain the following records:

- A. Accounting records showing the revenues from all goods or services sold, the costs incurred in generating those revenues, and resulting net profit or loss;
- B. Personnel records showing, for each person providing services in relation to any aspect of the Order, whether as an employee or otherwise, that person’s: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;
- C. Records of all customer complaints and refund requests concerning the subject matter of this Order, whether received directly or indirectly, such as through a third party, and any response;

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- D. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission;
- E. A copy of each unique advertisement, label, or other marketing material making a representation subject to this Order; and
- F. For 5 years from the date of the last dissemination of any representation covered by this Order, all materials that were relied upon in making the representation.

XI.**Compliance Monitoring**

IT IS FURTHER ORDERED that, for the purpose of monitoring Respondents' compliance with this Order:

- A. Within 10 days of receipt of a written request from a representative of the Commission, each Respondent must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury, and produce records for inspection and copying.
- B. For matters concerning this Order, representatives of the Commission are authorized to communicate directly with each Respondent. Respondents must permit representatives of the Commission to interview anyone affiliated with any Respondent who has agreed to such an interview. The interviewee may have counsel present.
- C. The Commission may use all other lawful means, including posing through its representatives as consumers, suppliers, or other individuals or entities, to Respondents or any individual or entity affiliated with Respondents, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.
- D. Upon written request from a representative of the Commission, any consumer reporting agency must furnish consumer reports concerning Individual Respondent, pursuant to Section 604(2) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(2).

XII.**Order Effective Dates**

IT IS FURTHER ORDERED that this Order is final and effective upon the date of its publication on the Commission's website (ftc.gov) as a final order. This Order will terminate 20 years from the date of its issuance (which date may be stated at the end of this Order, near the Commission's seal), or 20 years from the most recent date that the United States or the Commission files a complaint (with or without an accompanying settlement) in federal court

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alleging any violation of this Order, whichever comes later; *provided, however*, that the filing of such a complaint will not affect the duration of:

- A. Any Provision in this Order that terminates in less than 20 years;
- B. This Order's application to any Respondent that is not named as a defendant in such complaint; and
- C. This Order if such complaint is filed after the Order has terminated pursuant to this Provision.

Provided, further, that if such complaint is dismissed or a federal court rules that the Respondent did not violate any provision of the Order, and the dismissal or ruling is either not appealed or upheld on appeal, then the Order will terminate according to this Provision as though the complaint had never been filed, except that the Order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

By the Commission.

ATTACHMENT A: NOTICE TO CUSTOMERS

The notification email or letter must be in the following form, from an authorized Chemence, Inc. address or email address, appearing on Chemence, Inc.'s letterhead if in letter form, and containing a Chemence, Inc. signature line with the sender's full contact information:

Subject: Settlement of FTC deceptive advertising case

Dear <Name of customer>:

Our records show that you bought cyanoacrylate glue products from Chemence, Inc. that we provided to you in packages or with labels making "Made in USA" claims. We're writing to tell you that the Federal Trade Commission, the nation's consumer protection agency, has sued us for deceptive or false advertising. According to the FTC, we made misleading claims that our glues were all or virtually all made in the United States.

To settle the FTC's lawsuit, we're contacting our customers to tell them that our cyanoacrylate glue products contain significant imported ingredients and therefore should have been labeled with qualified claims – for example, "Made in USA with Globally Sourced Materials."

Concurring Statement

If you have questions about this lawsuit, visit [\[get short URL\]](#). For more information about “Made in USA” advertising, visit [\[get short URL\]](#).

Sincerely,

[signature]

[Chemence, Inc. signature block]

STATEMENT OF COMMISSIONER ROHIT CHOPRA

Summary

- Made in USA fraud harms both consumers and honest competitors. Yet for decades, FTC Commissioners pursued a no-money, no-fault settlement strategy to tackle this problem, ignoring Congressional authority to penalize bad actors.
- Over the last two years, the Commission has begun to turn the page on its checkered record, obtaining significant judgments for Made in USA fraud and initiating a rulemaking to trigger damages and penalties.
- Today’s action against Chemence and a top executive is another step forward in protecting the Made in USA brand and restoring the Commission’s law enforcement credibility.

For markets to function fairly, the Federal Trade Commission must be a credible watchdog, ensuring that companies have an incentive to follow the law and adhere to the agency’s rules and orders. Corporate defendants that blatantly lie about their products have been able to convince Commissioners that their conduct caused no harm, allowing them to extract settlements with virtually no consequences whatsoever. Robert Pitofsky, who served as a Commissioner and later as the agency’s Chairman, described these no-money, no-fault orders as “scandalously weak.”¹

Longstanding FTC policies recognize that blatant deception harms consumers and diverts sales from honest competitors.² But, over the years, Commissioners quietly adopted a permissive

1 See Irving Scher et al., *Part II – FTC Improvement Act*, 45 ANTITRUST L.J. 96, 117 (1976).

2 For example, the Commission’s Policy Statement on Deception notes that “[t]he prohibitions of Section 5 are intended to prevent injury to competitors as well as to consumers.” FTC Policy Statement on Deception, 103 F.T.C. 174, 175 (1984) (appended to *Cliffdale Assocs., Inc.*, 103 F.T.C. 110 (1984)), <https://www.ftc.gov/public-statements/1983/10/ftc-policy-statement-deception>.

Concurring Statement

approach toward corporate fraud, while bringing down the hammer on small, fly-by-night operations. Going hard on small businesses can give the appearance of active enforcement, even as more established companies face few consequences for their wrongdoing.

However, there are promising signs that this is changing. One of the best examples of our moving away from lax enforcement is our Made in USA fraud program. Today, the Commission is announcing another action against an established corporate actor, showing we are turning the page on our permissive policy of the past.

FTC's Flawed Made in USA Enforcement Strategy

Consumers prefer goods that are produced domestically, and they are even willing to pay more for them.³ This gives bad actors an incentive to unlawfully parade their products with the “Made in USA” brand. Government enforcement can ensure that this strategy does not pay off.

However, for decades, there was bipartisan consensus at the Federal Trade Commission that Made in USA fraud should not be penalized. Even in egregious cases, most matters were resolved with no-money, no-fault settlements, and many violators received nothing more than closing letters. In 1994, Congress authorized the Commission to do more – granting the agency new authority to trigger penalties and damages for Made in USA fraud – but past Commissioners declined to even propose implementing this new authority, allowing it to languish for a quarter century.⁴

This lack of deterrence contributed to brazen Made in USA fraud, as seen in some of the Commission's recent cases. In 2018, for example, the FTC sued Patriot Puck, which branded its product as “The Only American Made Hockey Puck.” In fact, according to the Commission's lawsuit, these pucks were made in China.⁵ That same year, the FTC sued a seller of military bags

3 See, e.g., Kong, Xinyao and Rao, Anita (June 8, 2020). “Do Made in USA Claims Matter?,” University of Chicago, Becker Friedman Institute for Economics Working Paper No. 2019-138, Available at SSRN: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3468543.

4 See generally Statement of Commissioner Rohit Chopra Regarding Activating Civil Penalties for Made in USA Fraud (Apr. 17, 2019), <https://www.ftc.gov/public-statements/2019/04/statement-commissioner-rohit-chopra-regarding-activating-civil-penalties>. In fact, under pressure from interest groups in the 1990s, Commissioners tried to weaken the Made in USA standard in light of globalized supply chains. Request for Public Comment on Proposed Guides for the use of U.S. Origin Claims, 62 Fed. Reg. 25020 (May 7, 1997), <https://www.govinfo.gov/content/pkg/FR-1997-05-07/pdf/97-11814.pdf>. See also Bruce Ingersoll, *FTC May Ease Its Guidelines For the ‘Made in USA’ Label*, WALL STREET J. (May 6, 1997), <https://www.wsj.com/articles/SB862863598530948000>. This effort was widely opposed, and it failed. See Matthew Bales, Jr., *Implications and Effects of the FTC's Decision to Retain the “All or Virtually All” Standard*, 30 U. MIAMI INTER-AM. L. REV. 727 (1999).

5 Press Release, Fed. Trade Comm'n, FTC Approves Final Consents Settling Charges that Hockey Puck Seller, Companies Selling Recreational and Outdoor Equipment Made False ‘Made in USA’ Claims (Apr. 17, 2020), <https://www.ftc.gov/news-events/press-releases/2019/04/ftc-approves-final-consents-settling-charges-hockey-puck-seller>; Statement of Commissioner Rohit Chopra In the Matter of Nectar Sleep, Sandpiper/PiperGear USA, and Patriot Puck (Sep. 12, 2018), <https://www.ftc.gov/public-statements/2018/09/statement-commissioner-chopra> (hereinafter Dissenting Statement on No-Consequences Made in USA Settlements).

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and other gear, charging the firm with inserting fraudulent Made in USA labels into imported products, and marketing these products on military bases.⁶ These practices harmed both consumers and honest competitors.⁷

Even firms that the FTC warned were seemingly undeterred. In 2017, the FTC required iSpring Water Systems to stop mislabeling its products. Last year, iSpring violated this order.⁸ In 2018, the FTC warned Williams-Sonoma to stop falsely marketing products as Made in USA;⁹ earlier this year, they were charged with doing it anyway.¹⁰ The fact that these repeat offenders were caught is a testament to our staff's vigilance, but offenders' willingness to break the law twice demonstrates the flaws of the strategy pursued by past Commissions.

Recently, we have seen how that strategy is changing. iSpring was ordered to pay a civil penalty, and the company admitted that it broke the law. Williams-Sonoma was required to pay \$1 million to resolve the Commission's allegations – a small sum, perhaps, for Williams-Sonoma, but a record for the FTC's Made in USA enforcement program. And in July, the Commission *finally* proposed codifying the Made in USA standard into a rule.¹¹ This rule would help to end the agency's reliance on no-money settlements, allowing the Commission to seek civil penalties, damages, and other sanctions for Made in USA violations.¹²

Turning the Page

Today's action against Chemence and its top executive marks another turning point for the FTC's enforcement strategy. Chemence is an established player in the adhesives and sealants

6 *Id.*

7 In fact, one competitor formally complained to the FTC that it lost out on a valuable Army and Air Force exchange listing based on Sandpiper's deception. See Advantus, Corp. (Comment #5) at 3–4, https://www.ftc.gov/system/files/documents/public_comments/2018/10/00005-155955.pdf.

8 Press Release, Fed. Trade Comm'n, Marketer of Water Filtration Systems to Pay \$110,000 Civil Penalty for Deceptive Made-in-USA Advertisements in Violation of 2017 Order (Apr. 12, 2019), <https://www.ftc.gov/news-events/press-releases/2019/04/marketer-water-filtration-systems-pay-110000-civil-penalty>.

9 Closing letter to Danielle M. Hohos, Esq., Deputy General Counsel for Williams-Sonoma, Inc. (June 13, 2018), https://www.ftc.gov/system/files/documents/closing_letters/nid/musa_williams-sonoma_closing_letter.pdf.

10 Press Release, Fed. Trade Comm'n, Williams-Sonoma, Inc. Settles with FTC, Agrees to Stop Making Overly Broad and Misleading 'Made in USA' Claims about Houseware and Furniture Products (Mar. 30, 2020), <https://www.ftc.gov/news-events/press-releases/2020/03/williams-sonoma-inc-settles-ftc-agrees-stop-making-overly-broad>.

11 Press Release, Fed. Trade Comm'n, FTC Issues Staff Report on Made in USA Workshop, Seeks Comment on Related Proposed Rulemaking for Labeling Rule (June 22, 2020), <https://www.ftc.gov/news-events/press-releases/2020/06/ftc-issues-staff-report-on-made-in-usa-workshop>.

12 Of course, not every Made in USA violation requires a lawsuit, or justifies a large judgment. But seeking and accepting no money and no meaningful consequences undermines our credibility.

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business. The order announced today imposes real consequences – a major difference from the Commission’s past Made in USA settlements.

First, the proposed order requires Chemence to forfeit \$1.2 million in revenue stemming from the company’s failures. This is another record judgment for the FTC’s Made in USA enforcement program, and it represents a sea change from the era of no-money settlements. It is encouraging to see the FTC reducing its reliance on no-money orders, both here and in other program areas.

Second, this order reminds businesses that FTC orders are not suggestions.¹³ The FTC’s complaint highlights false compliance reports filed by Chemence, and charges the company’s president personally for his involvement in the alleged violations.¹⁴ This stands in stark contrast to other actions against repeat offenders, where the FTC granted broad releases to executives who oversaw egregious violations. The approach in this matter is far more effective.¹⁵

Third, the proposed order requires Chemence to notify consumers of this action. Notice confers benefits in cases like this. It helps to erase any competitive advantage a firm realized through deception, and it accords consumers the dignity of knowing what happened. I have long argued we should seek notice in Made in USA and other matters,¹⁶ and I am pleased to see this provision incorporated into this enforcement action.

Our new approach is a critical step forward for protecting the Made in USA brand, and it is a model for other FTC enforcement areas. There is more work to do, including finalizing a Made in USA fraud rule, but we are clearly moving in the right direction.

While it is tempting for any government agency to think that the status quo is working well, we do our best work when we engage in self-critical analysis and strive for continuous improvement. I congratulate all of the agency’s staff who fought for this outcome, as well as the many stakeholders who have worked with us to turn the page on the policy inherited from our predecessor Commissioners.¹⁷ These efforts to reboot the Made in USA enforcement program represent real progress.

13 Memorandum from Commissioner Chopra to FTC Staff Regarding Repeat Offenders (May 14, 2018), <https://www.ftc.gov/public-statements/2018/05/commissioners-memorandum-2018-01-repeat-offenders>.

14 Compl. ¶¶ 13-16, *In the Matter of Chemence, Inc. et al.*, Docket No. X160032.

15 In addition, by filing this case administratively, the Commission has triggered civil penalties for future violations, even if in the absence of a final Made in USA fraud rule.

16 Dissenting Statement on No-Consequences Made in USA Settlements, *supra* note 4, https://www.ftc.gov/system/files/documents/public_statements/1407380/rchopra_musa_statement-sept_12.pdf.

17 See, e.g., Press Release, Truth in Advertising, Inc. (TINA.org), Ad Watchdog TINA.org Petitions FTC for Made in USA Rule (Aug. 22, 2019), <https://www.truthinadvertising.org/made-in-usa-press-release/>; Consumer Reports (Comment #6), <https://www.ftc.gov/policy/public-comments/2018/10/12/comment-00006-0>; Alliance for American Manufacturing (Comment #5), <https://www.ftc.gov/policy/public-comments/2018/10/12/comment-00005-0>.

Analysis to Aid Public Comment

ANALYSIS OF CONSENT ORDER TO AID PUBLIC COMMENT

The Federal Trade Commission (“FTC” or “Commission”) has accepted, subject to final approval, an agreement containing a consent order from Chemence, Inc. and James Cooke (“Respondents”).

The proposed consent order has been placed on the public record for thirty (30) days for receipt of comments by interested persons. Comments received during this period will become part of the public record. After thirty (30) days, the Commission will again review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make final the agreement’s proposed order.

This matter involves Respondents’ advertising, labeling, sale, and distribution of cyanoacrylate “superglue” products as made in the United States. According to the FTC’s complaint, Respondents represented that the cyanoacrylate “superglue” products they manufactured and supplied to trade customers were all or virtually all made in the United States. In fact, significant proportions of the chemical inputs, and overall costs, to manufacture Respondents’ cyanoacrylate “superglues” are attributable to foreign materials. In numerous instances, foreign materials accounted for more than 80% of materials costs and more than 50% of overall manufacturing costs for these products. The complaint also alleges that, by distributing promotional materials containing misrepresentations regarding the U.S. origin of their products, Respondents provided trade customers the means and instrumentalities to commit deceptive acts or practices. Based on the foregoing, the complaint alleges that Respondents engaged in deceptive acts or practices in violation of Section 5(a) of the FTC Act, and violated a 2016 federal court order in the process.

The proposed consent order contains provisions designed to prevent Respondents from engaging in similar acts and practices in the future. Consistent with the FTC’s Enforcement Policy Statement on U.S. Origin Claims, Part I prohibits Respondents from making U.S.-origin claims for their products unless either: (1) the final assembly or processing of the product occurs in the United States, all significant processing that goes into the product occurs in the United States, and all or virtually all ingredients or components of the product are made and sourced in the United States; (2) a clear and conspicuous qualification appears immediately adjacent to the representation that accurately conveys the extent to which the product contains foreign parts, ingredients or components, and/or processing; or (3) for a claim that a product is assembled in the United States, the product is last substantially transformed in the United States, the product’s principal assembly takes place in the United States, and United States assembly operations are substantial.

Part II prohibits Respondents from making any country-of-origin claim about a product or service unless the claim is true, not misleading, and Respondents have a reasonable basis substantiating the representation.

Part III prohibits Respondents from providing third parties with the means and instrumentalities to make the claims prohibited in Parts I or II.

Analysis to Aid Public Comment

Parts IV through VI are monetary provisions. Part IV imposes a judgment of \$1,200,000. Part V includes additional monetary provisions relating to collections. Part VI requires Respondents to provide sufficient customer information to enable the Commission to administer consumer redress, if appropriate.

Part VII is a notice provision requiring Respondents to identify and notify certain third-party trade customers of the FTC's action within 30 days after the issuance of the order, or within 30 days of the customer's identification, if identified later. Respondents are also required to submit reports regarding their notification program.

Parts VIII through XI are reporting and compliance provisions. Part VIII requires Respondents to acknowledge receipt of the order, to provide a copy of the order to certain current and future principals, officers, directors, and employees, and to obtain an acknowledgement from each such person that they have received a copy of the order. Part IX requires Respondents to file a compliance report within one year after the order becomes final and to notify the Commission within 14 days of certain changes that would affect compliance with the order. Part X requires Respondents to maintain certain records, including records necessary to demonstrate compliance with the order. Part XI requires Respondents to submit additional compliance reports when requested by the Commission and to permit the Commission or its representatives to interview Respondents' personnel.

Finally, Part XII is a "sunset" provision terminating the order after twenty (20) years, with certain exceptions.

The purpose of this analysis is to aid public comment on the proposed order. It is not intended to constitute an official interpretation of the proposed order or to modify its terms in any way.

Complaint

IN THE MATTER OF

STEVES DISTRIBUTING, LLC
D/B/A
STEVE’S GOODS,
AND
STEVEN TAYLOR SCHULTHEIS

CONSENT ORDER, ETC. IN REGARD TO ALLEGED VIOLATIONS OF SECTIONS 5 AND 12 OF THE
FEDERAL TRADE COMMISSION ACT

Docket No. C-4739; File No. 202 3065
Complaint, March 2, 2021 – Decision, March 2, 2021

This consent order addresses Steves Distributing, LLC’s advertising of cannabidiol (“CBD”) and cannabigerol (“CBG”), cannabinoid compounds found in hemp and cannabis. The complaint alleges that Respondents violated Sections 5(a) and 12 of the FTC Act by disseminating false and unsubstantiated advertisements claiming that: (1) CBD and CBG products can effectively prevent, treat, or mitigate multiple diseases and other health conditions; and (2) studies or scientific research prove that CBD and CBG products effectively prevent, treat, or mitigate multiple diseases and other health conditions. The consent order requires randomized, double-blind, placebo-controlled clinical testing for the challenged claims or any disease treatment, mitigation, or cure claim for any dietary supplement, food, or drug including but not limited to CBD products or CBG products. The consent order also prohibits other misleading or unsubstantiated representations about the health benefits, performance, efficacy, safety, or side effects of any Covered Product or essentially equivalent product.

Participants

For the *Commission*: *Laura Fremont and Ronnie Solomon.*

For the *Respondents*: *David Bush, Donni Emmie, and Larry Mishkin, Hoban Law Group.*

COMPLAINT

The Federal Trade Commission, having reason to believe that Steves Distributing, LLC, a limited liability company, and Steven Taylor Schultheis, individually and as an officer and owner of Steves Distributing, LLC (collectively, “Respondents”), have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Steves Distributing, LLC (“Steves”), also doing business as “Steve’s Goods,” is a limited liability company registered in Colorado, with its principal office or place of business at 1500 Kansas Avenue, Suite 2C, Longmont, Colorado 80501.
2. Respondent Steven Taylor Schultheis (“Schultheis”) is the Chief Executive Officer, President, and principal shareholder of Steves. Schultheis currently holds a 95% equity interest in the Company. As founder and CEO, Schultheis has control over the operations and decisions of the Company. Individually or in concert with others, he controlled or had the